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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,621	12/05/2003	John J. Thrall	5598/151US	2930
7590	11/16/2006		EXAMINER	LEWIS, ALICIA M
Seth Ostrow Brown Raysman Millstein Felder and Steiner LLP 900 Third Avenue New York, NY 10022-4728			ART UNIT	PAPER NUMBER
			2164	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/729,621	THRALL, JOHN J.	
	Examiner Alicia M. Lewis	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 July 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2 and 4-25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2 and 4-25 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413)

Paper No(s)/Mail Date. _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application

3) Information Disclosure Statement(s) (PTO/SB/08)

6) Other: _____

Paper No(s)/Mail Date _____

DETAILED ACTION

This office action is responsive to communication filed July 24, 2006. Claim 3 has been cancelled, and claims 1, 19 and 25 have been amended. Claims 1, 2 and 4-25 remain pending in this application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1, 2 and 4-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US Patent Application Publication 2005/0071255 A1) ('Wang') in view of Golding et al. (US Patent 6,640,218 B1) ('Golding').

With respect to claims 1, 19 and 25, Wang teaches:

tracking clicks by users on data returned in a search result in response to a query (element 126 in Figure 1, paragraph 27 lines 3-5, paragraph 28 lines 1-4); and determining a user preference for a clicked data in accordance with a physical position of the clicked data in the search result (paragraphs 26, 30, 34).

Wang does not explicitly teach wherein determining a user preference for the clicked data is performed by determining a ratio of actual clicks to clicks expected for the clicked data and a specific query.

Golding teaches estimating the usefulness of an item in a collection of information (see abstract) in which he teaches determining a user preference for the clicked data is performed by determining a ratio of actual clicks to clicks expected for the clicked data and a specific query (Figure 5, column 2 lines 39-44, column 8 line 39 – column 9 line 47).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Wang by the teaching of Golding because wherein determining a user preference for the clicked data is performed by determining a ratio of actual clicks to clicks expected for the clicked data and a specific query would enable a method to determine popularity measures of sets of criteria and to determine the overall popularity of an item (column 2 lines 60-64).

With respect to claims 2 and 20, Wang as modified teaches wherein determining a user preference for a clicked data is further performed in accordance with a number of clicks made by users on the data returned in the search result (Wang, paragraph 31 lines 6-9, paragraph 37 lines 1-3; Golding, column 2 lines 24-26, column 3 lines 1-2).

With respect to claim 4, Wang as modified teaches wherein determining a user preference is performed periodically (Wang, paragraph 31; Golding, column 10 lines 41-44).

With respect to claim 5, Wang as modified teaches wherein determining a user preference is performed weekly (Golding, column 11 lines 53-60).

With respect to claim 6, Wang as modified teaches wherein determining a user preference is performed in real time (Golding, column 11 line 65 – column 12 line 12).

With respect to claim 7, Wang as modified teaches further comprising determining values in a weight table based on user preferences for physical positions within search results independent of a query (Wang, paragraphs 33-34, page 8 claim 4; Golding, column 4 lines 47-53, column 8 lines 61-62).

Golding teaches a relevance metric (weight) based on user preferences and Wang teaches adjusting a score to account for physical positions within search results.

With respect to claims 8 and 21, Wang as modified teaches wherein determining a user preference for a clicked data in accordance with a physical position of the data in the search result is performed in accordance with weight values determined by observed user click behavior (Wang, paragraph 28).

With respect to claim 9, Wang as modified teaches wherein determining a user preference for a clicked data in accordance with a physical position of the data in the search result is performed in accordance with weight values determined by trial and error (Golding, column 7 lines 4-20).

With respect to claim 10, Wang as modified teaches wherein tracking clicks by users includes tracking: a query, a data fingerprint, and a position in the search results for a click on data from a search result for a specific query (Wang, paragraph 29).

With respect to claim 11, Wang as modified teaches wherein tracking clicks by users further includes tracking: a time the click occurred and user ID information (Wang, paragraph 29).

Because there are multiple users of the system, it is implied that user ID information is tracked (Wang, paragraph 28 lines 1-3).

With respect to claims 12 and 22, Wang as modified teaches wherein determining a user preference further includes weighting click information so that clicks by users on data in unpopular positions in the search results migrate that data toward the top of future search results (Golding, column 7 lines 16-20).

With respect to claim 13, Wang as modified teaches further including normalizing the click information before the determining step (Wang, paragraph 33 lines 1-2).

With respect to claim 14 and 23, Wang as modified teaches wherein the data is image data (Wang, paragraph 27 lines 9-10).

With respect to claim 15, Wang as modified teaches wherein the data is shopping data (Wang, paragraph 27 lines 7-8).

With respect to claim 16, Wang as modified teaches wherein the data is textual data (Wang, paragraph 27 lines 9-10).

With respect to claim 17, Wang as modified teaches further comprising using the determined user preference to determine rankings for display of future search results (Golding, column 2 lines 48-52).

With respect to claim 18, Wang as modified teaches wherein determining a user preference includes determining context dependent user preference scores in accordance with a characteristic of the users clicking on the search results (Wang, paragraph 35).

With respect to claim 24, Wang as modified teaches wherein determining a user preference uses a plurality of weight tables corresponding to ones of a plurality of user interfaces displaying the search result (Golding, column 3 lines 34-38, column 8 lines 64-67).

Response to Arguments

Applicant's arguments filed July 24, 2006 have been fully considered but they are not persuasive. Applicant argues that Wang does not teach determining a user preference for the clicked data is performed by determining a ratio of actual clicks to clicks expected for the clicked data and a specific query. This limitation was previously presented in dependent claim 3. Therefore, Wang has been combined with Golding to teach the limitations of amended claims 1, 19 and 25.

Applicant further argues that Wang does not qualify as prior art under 35 U.S.C 103(a) because "at the time the invention described in the present application was made, Wang was owned by Yahoo!, Inc." There is no such evidence of this ownership in the record of this application; therefore Wang does qualify as prior art. The record shows that Wang was owned by Overture Services, Inc.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Lewis whose telephone number is 571-272-5599. The examiner can normally be reached on Monday - Friday, 9 - 6:30, alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on 571-272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alicia Lewis
November 6, 2006


SAM RIMELL
PRIMARY EXAMINER